

(3) The Commission interprets section 11 and the OMB guidelines as follows:

(i) Future contracts between the Commission and the successfully bidding recording firm will provide that any party to a Commission proceeding or other interested person (hereinafter included within the meaning of "party") shall be able to obtain a copy of the transcript of the proceeding in which it is involved at the actual cost of duplication of the original transcript, which includes a reasonable amount for overhead and profit, except where it requests delivery of copies in a shorter period of time than is required for delivery by the Commission.

(ii) The Commission will bear the full expense of transcribing all of its administrative proceedings where it requests regular delivery service (as set forth in the Contract). In cases where the Commission requests daily delivery of transcript copies (as set forth in the Contract), any party may receive daily delivery service at the actual cost of duplication.

(iii)(A) Where the Commission does not request daily copy service, any party requesting such service must bear the incremental cost of transcription above the regular copy transcription cost borne by the Commission, in addition to the actual cost of duplication, except that where the party applies for and properly shows that the furnishing of daily copy is indispensable to the protection of a vital right or interest in achieving a fair hearing, the presiding officer in the proceeding in which the application is made shall order that daily copy service be provided the applying party at the actual cost of duplication, with the full cost of transcription being borne by the Commission.

(B) In the event a request for daily copy is denied by the presiding officer, the requesting party, in order to obtain daily copy, must pay the cost of transcription over and above that borne by the Commission, i.e., the incremental cost between that paid by the Commission when it requests regular copy and when it requests daily copy.

(C) The decision of the presiding officer in this situation is interpreted as

falling within the scope of the functions and powers of the presiding officer, as defined in § 502.147(a). [Rule 165.]

#### **§ 502.166 Corrections of transcript.**

Motions made at the hearing to correct the record will be acted upon by the presiding officer. Motions made after the hearing to correct the record shall be filed with the presiding officer within twenty-five (25) days after the last day of hearing or any session thereof, unless otherwise directed by the presiding officer, and shall be served on all parties. Such motions may be in the form of a letter. If no objections are received within ten (10) days after date of service, the transcript will, upon approval of the presiding officer, be changed to reflect such corrections. If objections are received, the motion will be acted upon with due consideration of the stenographic record of the hearing. [Rule 166.]

#### **§ 502.167 Objection to public disclosure of information.**

Upon objection to public disclosure of any information sought to be elicited during a hearing, the presiding officer may in his or her discretion order that the witness shall disclose such information only in the presence of those designated and sworn to secrecy by the presiding officer. The transcript of testimony shall be held confidential. Copies of said transcript need be served only upon the parties to whose representatives the information has been disclosed and upon such other parties as the presiding officer may designate. This rule is subject to the proviso that any information given pursuant thereto, may be used by the presiding officer or the Commission if deemed necessary to a correct decision in the proceeding. [Rule 167.]

[55 FR 28400, July 11, 1990]

#### **§ 502.168 Copies of data or evidence.**

Every person compelled to submit data or evidence shall be entitled to retain or, on payment of proper costs, procure a copy of transcript thereof. [Rule 168.]

**§ 502.169 Record of decision.**

The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. [Rule 169.]

**Subpart K—Shortened Procedure****§ 502.181 Selection of cases for shortened procedure; consent required.**

By consent of the parties and with approval of the Commission or presiding officer, a complaint proceeding may be conducted under shortened procedure without oral hearing, except that a hearing may be ordered by the presiding officer at the request of any party or in his or her discretion. [Rule 181.]

**§ 502.182 Complaint and memorandum of facts and arguments and filing fee.**

A complaint filed with the Commission under this subpart shall have attached a memorandum of the facts, subscribed and verified according to § 502.112, and of arguments separately stated, upon which it relies. The original of each complaint with memorandum shall be accompanied by copies for the Commission's use. The complaint shall be accompanied by remittance of a \$166 filing fee. [Rule 182.]

[49 FR 44369, Nov. 6, 1984, as amended at 59 FR 59170, Nov. 16, 1994]

**§ 502.183 Respondent's answering memorandum.**

Within twenty-five (25) days after date of service of the complaint, unless a shorter period is fixed, each respondent shall, if it consents to the shortened procedure provided in this subpart, serve upon complainant pursuant to subpart H of this part an answering memorandum of the facts, subscribed and verified according to § 502.112, and of arguments, separately stated, upon which it relies. The original of the answering memorandum shall be accompanied by a certificate of service as provided in § 502.114 and shall be accompanied by copies for the Commission's use. If the respondent does not consent to the proceeding being conducted under the shortened procedure provided

in this subpart, the matter will be governed by subpart E of this part and the respondent shall file an answer under § 502.64. [Rule 183.]

**§ 502.184 Complainant's memorandum in reply.**

Within fifteen (15) days after the date of service of the answering memorandum prescribed in § 502.183, unless a shorter period is fixed, each complainant may file a memorandum in reply, subscribed and verified according to § 502.112, served as provided in § 502.114, and accompanied by copies for the Commission's use. This will close the record for decision unless the presiding officer determines that the record is insufficient and orders the submission of additional evidentiary materials. [Rule 184.]

**§ 502.185 Service of memoranda upon and by interveners.**

Service of all memoranda shall be made upon any interveners. Intervenors shall file and serve memoranda in conformity with the provisions relating to the parties on whose behalf they intervene. [Rule 185.]

**§ 502.186 Contents of memoranda.**

The memorandum should contain concise arguments and fact, the same as would be offered if a formal hearing were held and briefs filed. If reparation is sought, paid freight bills should accompany complainant's original memorandum. [Rule 186.]

**§ 502.187 Procedure after filing of memoranda.**

An initial, recommended, or tentative decision will be served upon the parties in the same manner as is provided under § 502.225. Thereafter, the procedure will be the same as that in respect to proceedings after formal hearing. [Rule 187.]

**Subpart L—Depositions, Written Interrogatories, and Discovery****§ 502.201 General provisions governing discovery.**

(a) *Applicability.* The procedures described in this subpart are available in all adjudicatory proceedings under section 22 of the Shipping Act, 1916 and